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UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 6  
DALLAS, TEXAS

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REGIONAL HEARING CLERK  
EPA REGION VI

IN THE MATTER OF )

UNILATERAL ADMINISTRATIVE ORDER

SEABOARD FARMS, INC. )  
9000 West 67<sup>th</sup> Street )  
Shawnee Mission, Kansas 66201 )

U.S. EPA DOCKET NO.  
RCRA-06-2001-0908

SHAWNEE FUNDING )  
LIMITED PARTNERSHIP )  
Shawnee Capital, Inc. )  
World Financial Center, )  
North Tower )  
27<sup>th</sup> Floor, 250 Vesey Street )  
New York, New York 10281-1327 )

Proceeding Under §7003  
of the Resource Conservation  
and Recovery Act, as Amended,  
42 U.S.C. §6973.

PIC INTERNATIONAL GROUP, )  
INC. )  
3033 Nashville Road )  
Franklin, Kentucky 42134 )

RESPONDENTS )

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**EXHIBITS**

**ATTACHMENT**

## **I. JURISDICTION**

1. This Administrative Order ("Order") is issued to protect public health and the environment pursuant to Section 7003 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act ("RCRA"), and further amended by the Hazardous and Solid Waste Amendments of 1984 ("HSWA"), 42 U.S.C. § 6973. Section 7003(a) of RCRA authorizes the Administrator of the U.S. Environmental Protection Agency ("EPA") to issue this Order whenever the Administrator receives evidence that the past or present handling, storage, treatment, transportation, or disposal of any solid waste may present an imminent and substantial endangerment to health or the environment. The authority to issue this Order has been delegated by the Administrator of the EPA to the Regional Administrator, EPA Region 6, by EPA Delegation Nos. 8-22-A and 8-22-C, dated May 11, 1994, and No. 8-23, dated March 6, 1986, and further delegated to the Director of the Compliance Assurance and Enforcement Division, Region 6 ("Director") by Delegations No. R6-8-22-A, dated July 27, 1995, and No. R6-8-23, dated July 27, 1995.
2. This Order is issued to Seaboard Farms, Inc., Shawnee Funding Limited Partnership, and PIC International Group, Inc., herein known as "Respondents," past or present operators and/or owners of the swine facilities located at Lacey 1 [N/2 Section 18, T19N, R8W, Indian Meridian (IM)]; Lacey 3 [SE/4 Section 27, T19N, R8W (IM)]; Lacey 4 [NW/4 Section 2, T18N, R8W (IM)]; Lacey 6 [NE/4 Section 19, T18N, R7W (IM)], Kingfisher County, and Fairview Nursery Complex [parts of Section 30, T20N, R14W (IM)], in Major County, Oklahoma. These facilities are under the ownership or control of the Respondents are herein referred to as the "Facilities".

## **II. PARTIES BOUND**

3. This Order shall apply to, and be binding upon, Respondents, their officers, directors, employees, agents, trustees, receivers, successors, assigns, and all other persons, including, but not limited to, firms, corporations, subsidiaries, contractors and consultants, acting under or on behalf of Respondents in connection with the implementation of this Order.
4. No change in the ownership of the Facilities, or the corporate or partnership status of Respondents, will in any way alter, diminish, or otherwise affect the obligations of Respondents under this Order. Respondents shall be responsible for and liable for completing all of the activities required pursuant to this Order, regardless of whether said activities are to be performed by employees, agents, contractors or consultants of Respondents. Respondents shall be liable for their failure, or the failure of their employees, agents, contractors or consultants, to completely perform any or all of said activities, or to satisfy each of the terms and conditions herein.
5. Respondents shall provide a copy of this Order to all contractors, subcontractors, laboratories, and consultants retained to conduct or monitor any portion of the work to be performed pursuant to this Order. Said copy of the Order shall be provided within seven (7) days of the Effective Date of this Order, or the date that such services are retained. Respondents shall condition all contracts made with contractors, subcontractors,

laboratories and/or consultants, in connection with this Order, on compliance with the terms of this Order.

6. In the event of any change in ownership, control, and/or operation of the Facilities from Respondents to another party during the pendency of this Order, Respondents shall notify the EPA in writing, no later than thirty (30) calendar days prior to such change, of the nature and effective date of such change. Any documents transferring ownership, control, and/or operations of the Facilities from Respondents to another party during the pendency of this Order shall include written notice of this Order. Further, Respondents shall provide a copy of this Order to any successor(s) prior to such change during the pendency of the Order.

### **III. STATEMENT OF PURPOSE**

7. The purpose of this Order is to require the Respondents to identify, investigate, and prevent the mishandling (as evidenced by the past or present handling, storage, treatment, transportation, or disposal) of any solid waste which may present an imminent and substantial endangerment to human health and/or the environment and to ensure that remedial action deemed necessary by the EPA be designed and implemented to protect human health and/or the environment.
8. This Order requires the Respondents to: (1) perform a Field Analysis (FA) to fully determine the nature and extent of any release(s) of solid waste at or from the Facilities; (2) perform a Remedial Procedures Analysis (RPA) to identify and evaluate alternatives for remedial action(s) to prevent or mitigate any release(s) of solid waste at or from the Facilities, and to collect any other information necessary to support the selection of remedial procedures at the Facilities; and (3) implement the remedial procedure or procedures (Remedial Procedures Implementation (RPI)) selected by the EPA for the Facilities.

### **IV. NOTICE TO THE STATE**

9. Notice of issuance of this Order was given in writing on June 15, 2001, to the State of Oklahoma Department of Environmental Quality ("ODEQ") pursuant to Section 7003(a) of RCRA, 42 U.S.C. § 6973(a).

### **V. DEFINITIONS**

10. Unless otherwise expressly provided herein, terms used in this Order which are defined in RCRA shall have the meanings assigned to them in that Act. Whenever the terms listed below are used in this Order, the following definitions apply:
11. For purposes of this ORDER, the term "underground source of drinking water" ("USDW") means, in part, an aquifer or its portion which contains a sufficient quantity of ground water to supply a public water system and currently supplies drinking water for human consumption, or contains fewer than 10,000 milligrams per liter ("mg/l") total dissolved solids, and which is not an exempted aquifer. See, 40 C.F.R. § 144.3.

12. Anaerobic: life or process that occurs in, or is not destroyed by the absence of oxygen.
13. For purposes of this ORDER, an aquifer means a geological formation, group of formations or part of a formation that is capable of yielding a significant amount of water to a well or spring. See, 40 C.F.R. § 144.3.
14. Aerobic: life or process that occurs in, or is not destroyed by the presence of oxygen.
15. Blue baby syndrome: A disease that affects the oxygen carrying capacity of an infant's blood, usually resulting from the consumption of high levels of nitrate. Also, known as methemoglobinemia.
16. Contaminant: Any physical, chemical, biological, or radiological substance or matter in water. See, 42 U.S.C. 300f 4(c) (6).
17. Down-gradient: in the direction of flow of the water in the aquifer.
18. Ground water: Water that saturates subsurface formations or aquifers.
19. Hydraulic Conductivity: A coefficient of proportionality that describes the rate at which a fluid can move through a permeable medium. It is a function of both the media and of the fluid flowing through it.
20. Maximum Contaminant Level (MCL) means the maximum permissible level of a contaminant in water, which is delivered to any user of a public water system. See, 42 U.S.C. 300f(3)
21. Nitrate (NO<sub>3</sub>): An important plant nutrient that is soluble in water and may cause health problems.
22. Nitrate-nitrogen (NO<sub>3</sub>-N): Relates to the actual nitrogen in nitrate. Multiply NO<sub>3</sub>-N values by 4.4 to convert to nitrate.
23. Total Kjeldahl Nitrogen: Ammonia plus total organic nitrogen equals Total Kjeldahl Nitrogen.

## **VI. FINDINGS OF FACT**

24. Based on the information in its possession, particularly that contained in the Administrative Record, the EPA makes the following findings of fact.
25. Seaboard Farms, Inc. ("Seaboard" or "Seaboard Farms") is a State of Oklahoma corporation and operates swine facilities located at Lacey 1 [N/2 Section 18, T19N, R8W, Indian Meridian (IM)]; Lacey 3 [SE/4 Section 27, T19N, R8W (IM)]; Lacey 4 [NW/4 Section 2, T18N, R8W (IM)]; Lacey 6 [NE/4 Section 19, T18N, R7W (IM)], Kingfisher County, and Fairview Nursery Complex [parts of Section 30, T20N, R14W (IM)], in Major County, Oklahoma. Seaboard Farms' registered agent is The Corporation Company, 735 First National Building, Oklahoma City, OK 73102.
26. Shawnee Funding Limited partnership ("SFLP") is a Delaware partnership and owns swine facilities located at Lacey 1 [N/2 Section 18, T19N, R8W, Indian Meridian (IM)]; Lacey 3

[SE/4 Section 27, T19N, R8W (IM)]; Lacey 4 [NW/4 Section 2, T18N, R8W (IM)]; Lacey 6 [NE/4 Section 19, T18N, R7W (IM)], Kingfisher County, and Fairview Nursery Complex [parts of Section 30, T20N, R14W (IM)], in Major County, Oklahoma. Shawnee Funding Limited partnership's registered agent is National Corporate Research Ltd., 615 South DuPont Highway, Dover, Delaware 19901.

27. PIC International Group, Inc. ("PIC") incorporated in the State of Delaware was the former owner and operator of the swine facilities located at Lacey 1 [N/2 Section 18, T19N, R8W, Indian Meridian (IM)]; Lacey 3 [SE/4 Section 27, T19N, R8W (IM)]; Lacey 4 [NW/4 Section 2, T18N, R8W (IM)]; Lacey 6 [NE/4 Section 19, T18N, R7W (IM)], Kingfisher County, and Fairview Nursery Complex [parts of Section 30, T20N, R14W (IM)], in Major County, Oklahoma. PIC's registered agent is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, Delaware 19808.

28. The facility descriptions are as follows:

Facilities	Type	Location	First Populated
Lacey 1 (a.k.a. Bryan Sow & Norris Farms; F62)	Breeding	N/2 Section 18, T19N, R8W (IM)	Sept. 28, 1993
Lacey 3 (a.k.a. Watson; F424)	Finishing	SE/4 Section 27, T19N, R8W (IM)	May 1, 1993
Lacey 4 (a.k.a. Grimes Finisher; F425)	Finishing	NW/4 Section 2, T18N, R8W (IM)	Oct. 15, 1993
Lacey 6 (a.k.a. Miller; F426)	Finishing	NE/4 Section 19, T18N, R7W (IM)	Aug. 30, 1994
Fairview Nursery Complex (Fairview Nursery 1 - 4) (a.k.a. McKee & Moore Farms; F155 - 158)	Nursery	parts of Section 30, T20N, R14W (IM)	Jan. 11, 1995 and June 28, 1995

29. The Facilities consist of bio-secured, enclosed and covered buildings within fenced properties. The buildings contain an animal waste flushing system which discharges waste to a waste lagoon. The waste lagoons at each of the Facilities are anaerobic. They are lined with high density polyethylene and are rectangular in shape, with surrounding berms. Effluent from the lagoons is land applied at each of the Facilities through a central spray pivot irrigation system to grass fields for grazing cattle.
30. Swine produce considerable amounts of nitrogenous organic waste, typically in the range of 6 to 8 pounds of manure per 100 pounds of weight per day. Swine effluent concentrations of ammonia and nitrate can be considerable, as ammonia is produced by hydrolysis of waste fluids. Due to their high solubility, ammonia and nitrate will readily leach into ground water. Where aerobic conditions are present, such as is typical in a surficial aquifer, ammonia will be converted to nitrite and then nitrate. Plants can uptake nitrate and nitrite,



but only in limited quantities. Quantities of nitrate and nitrite in the soil in excess of concentrations which can be used by plants will often migrate to the water table where they may adversely impact ground water quality and its use as a drinking water source.

31. As defined or set forth by Section 1004(27) of RCRA, 42 U.S.C. § 6903(27), a solid waste is any discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations.
32. The substance nitrate is a "contaminant" within the meaning of Section 1401(c)(6) of the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300f(c)(6).
33. Swine effluent leaked into ground water in various ways, such as from a lagoon or associated infrastructure (piping) is a discarded material from agricultural operations and thus a solid waste.
34. The SDWA requires the EPA to publish maximum contaminant level goals ("MCLG's") for contaminants which, in the judgment of the Administrator, may have an adverse effect on the health of persons and which are known or anticipated to occur in public water systems. MCLG's are to be set at a level at which no known or anticipated adverse effects on the health of persons would occur and which allow a margin of safety. See, 40 C.F.R. § 141. At the same time the EPA publishes an MCLG, it must also promulgate a National Primary Drinking Water Regulation which includes either (1) a maximum contaminant level ("MCL") or (2) a required treatment technique. An MCL must be set as close to the MCLG as feasible taking into account economic feasibility of drinking water systems. The MCLG and MCL for nitrate under the National Primary Drinking Water Regulations are 10 mg/l as nitrogen. See, 40 C.F.R. § 141.62. The EPA has established this drinking water standard to protect against the adverse effects of nitrate. See, 40 C.F.R. § 141.32(e)(20).
35. The EPA has determined that nitrate poses an acute health concern at certain levels of exposure. Nitrate in drinking water is colorless and odorless. Ingestion of nitrate, converted to nitrite in the body, interferes with the oxygen carrying capacity of blood, potentially resulting in cyanosis and, at higher levels, asphyxia. High levels of nitrate in water can also cause a blood disorder in infants known as methemoglobinemia ("blue baby syndrome") that can be fatal if left untreated. Infants up to 3 months of age are the most susceptible with regard to nitrate. This is due to the fact that about 10 percent of ingested nitrate is transformed to nitrite in the adult and child, and 100 percent of ingested nitrate can be transformed to nitrite in the infant. Thus, infants with a weight of less than 4 kilograms (8.8 pounds) represent a high risk subpopulation. At 10 mg/l or higher concentrations, nitrate-nitrogen poses a health threat to the population in general, and an acute health threat to children under 6 months of age. This level was based on human case studies in which fatal poisonings have occurred following ingestion of water containing nitrate-nitrogen concentrations greater than 10 mg/l. Therefore, at concentrations above 10 mg/l in drinking water, nitrate presents an imminent and substantial endangerment to the health of persons.
36. Pregnant or lactating women, adults with reduced stomach acidity, and individuals deficient in the enzyme that changes methemoglobin back to normal hemoglobin are all susceptible



to nitrite-induced methemoglobinemia. Some individuals with certain diseases, smokers, or individuals taking antioxidant medications or chemicals, have an increased susceptibility of methemoglobinemia.<sup>1</sup>

37. There is some evidence that pregnant women who drink water contaminated with nitrate are at risk for adverse birth outcomes. A recent study showed that nitrate concentrations above 20 mg/l may be associated with increased spontaneous abortions<sup>2</sup>. Another study showed a significant increase in birth defects associated with nitrate in drinking water at 5-15 mg/l<sup>3</sup>. The latter association could not be attributed solely to nitrate exposure since other chemicals including pesticides were likely present in the drinking water.<sup>4</sup>
38. Prolonged intake of high levels of nitrate is linked to gastric problems due to the formations of nitrosamines in the stomach, colon and bladder, which have been shown to cause cancer in test animals, including higher primates. An Iowa study, verified this increased risk of cancer related nitrate intake for bladder cancer in women<sup>5</sup>.
39. High levels of nitrate in drinking water have also been associated with spontaneous abortions and have been linked with non-Hodgkin's lymphoma and gastro-intestinal cancers.<sup>6</sup>
40. A woman resident, down-gradient of one of the Facilities, has experienced five miscarriages.

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<sup>1</sup>Natural Resources Cornell Cooperative Extension – Nitrate: Health Effects in Drinking Water; M. McCasland, N. M. Trautmann & K. S. Porter, Center for Environmental Research et al; <http://pmep.cce.cornell.edu/fa...self/facts.nit-heef-grw85.html>

<sup>2</sup>LaGrange County Health Department, Indiana. Spontaneous abortions possibly related to ingestion of nitrate-contaminated well water--LaGrange County, Indiana, 1991-1994. Morb. Mortal. Wkly. Rep. (1996) 45(26):569-72

<sup>3</sup>Dorsch MM, Scragg RK, McMichael AJ, Baghurst PA and Dyer KF. Congenital malformations and maternal drinking water supply in rural south Australia: A case-control study. Am. J. Epidemiol. (1984) 119(4):473-86.

<sup>4</sup>This section is taken from "Public Health Assessment; Bertrand Creek Area Properties (a/k/a North Whatcom County Groundwater Contamination) Lynden, Whatcom County, Washington; [http://www.atsdr.cdc.gov/HAC/pha/bertrand/ber\\_p2.html](http://www.atsdr.cdc.gov/HAC/pha/bertrand/ber_p2.html)

<sup>5</sup>Nitrate In Drinking Water Increases Risk for Bladder Cancer; University of Iowa release April 16, 2001. [www.eurekalert.org/releases/uiio-nid041601.html](http://www.eurekalert.org/releases/uiio-nid041601.html)

<sup>6</sup>Nitrate in Drinking Water Associated with Increased Risk for Non-Hodgkin's Lymphoma; [http://cis.nci.nih.gov/fact/3\\_55.htm](http://cis.nci.nih.gov/fact/3_55.htm)

41. In addition, concentrated animal wastes may contain bacteria and viruses. These pathogens can move through the soil and enter the ground water. This is especially a problem where ground water is shallow and soils are sandy or have high hydraulic conductivity, as in the terrace deposits on which the Facilities are situated. A recent 2-year study of two unlined swine waste lagoons in Illinois showed extensive contamination by fecal coliform and fecal streptococcus bacteria in ground water near the lagoons and extending outward over 100 meters<sup>7</sup>.
42. Due to their smaller size, viruses can travel more easily than bacteria through the pore spaces in the ground. Also, some harmful viruses may have a longer life span underground than do bacteria. However, according to the EPA estimates viruses do not survive more than two years in ground water, which means that in many cases viral contamination does not spread more than a few hundred feet from its source.
43. In addition, concentrated animal waste may contain pharmaceutical compounds. Pharmaceutical compounds, commonly used as feed additives in commercial swine operations, may enter ground water and surface water with as yet undetermined consequences.
44. The Lacey Facilities, north of the Cimarron River in Oklahoma, are located on an aquifer known as the Cimarron Terrace, which consists of sand and gravel with some clay and sandy clay. The aquifer hydraulic conductivity ranges from 24 to 52 inches per hour.<sup>8</sup> The overlying soil is characterized in the National Resource Conservation Services' STATSGO database as ranging from sandy clay to coarse sandy loam, with fine sand to fine sandy loam also occurring at Lacey Farms 2. Permeability ranges in the soil from 0.6 to 20 inches per hour. The section of the Cimarron River, that the ground water below the Lacey Farms flows into, is classified by the Oklahoma Water Resources Board as an emergency water supply.
45. The Fairview Nursery Complex, north of the North Canadian River in Oklahoma, is located on sand and gravel with some clay and sandy clay. Thin dune sands cover much of the area above the water table<sup>9</sup>. The aquifer hydraulic conductivity ranges from 30 to 50 inches per hour. The overlying soil is characterized in the National Resource Conservation Services' STATSGO database as ranging from fine sand to loamy fine sand with permeability ranging from 6 to 20 inches per hour. The section of the North Canadian River, that the

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<sup>7</sup>A Tale of Two Lagoons: Risk of Pollution Depends on Geology; I. Krapac, Aug. 16, 1999; University of Illinois at Urbana-Champaign.

<sup>8</sup>Hydrologic Data For The Alluvium and Terrace Deposits of the Cimarron River From Freedom to Guthrie, Oklahoma; USGS Open-file Report 94-504.

<sup>9</sup>Geohydrology and Numerical Simulation of The Alluvium and Terrace Aquifer Along the Beaver-North Canadian River from the Panhandle to Canton Lake, northwestern Oklahoma; USGS Open-file Report 81-483; Davis, R. E. and S. C. Christenson.

ground water below the Fairview Nursery Complex flows into, is classified by the Oklahoma Water Resources Board as a public and private water supply.

46. Given the shallow depth of the ground water (generally less than 22 feet at the Lacey sites and less than 40 feet at the Fairview Nursery Complex), its movement toward the river, and the absence of barriers, solid waste entering the ground water at the Facilities would become a part of the ground water which moves toward and into the Cimarron or North Canadian Rivers.
47. Pursuant to the signed Memorandum of Agreement, dated May 8, 1997, between the EPA and PIC in conjunction with the EPA's National Environmental Policy Act (NEPA) review process, an annual ground water monitoring report was submitted to the EPA Region 6. Additional lagoon monitor wells were required by the Oklahoma Department of Agriculture (ODA) at Lacey 3, Lacey 4, Lacey 6 and the Fairview Nursery Complex in late 1999 to comply with Oklahoma confined animal feeding operations regulation 35:17-3.
48. Ground water sampling data for nitrate concentrations in the monitoring wells has been provided to EPA since February 1997 by PIC, since 1999 by ODA, and since 2000 by Seaboard. Sampling was initiated prior to February 1997.
49. In December 2000, the EPA collected on-site samples from the monitor wells, irrigation wells, barn supply wells, and manager's house wells. Laboratory analysis of the samples showed nitrate concentrations (nitrate-nitrogen) as high as 90.4 mg/l down-gradient from the Facilities.
50. In March 2001, the EPA Region 6's Water Programs Enforcement Branch conducted an initial site screening by collecting water samples from water wells surrounding the Lacey Facilities listed in paragraph 28. Some sites could not be sampled because residents were absent or wells were inaccessible. Laboratory analysis showed some of the wells to have nitrate-nitrogen over the safety standard for human health.
51. In May 2001, the EPA Region 6's Water Programs Enforcement Branch conducted a validation sampling event of the water wells surrounding the Lacey Facilities to confirm the results of the earlier sampling. At that time, residents were advised that an earlier sample from their well(s) contained nitrates exceeding the MCL.
52. The EPA has consulted with the Oklahoma Department of Agriculture, the Oklahoma Attorney General's office, and the Oklahoma Department of Environmental Quality regarding contamination at swine facilities, including the Facilities named here, on numerous occasions.
53. Lacey 1
  - A. The regional ground water flow direction of the surficial aquifer is to the west - southwest. The local ground water flow direction ranges from south to west-northwest at different places beneath the facility and continues west toward the private residence located adjacent to Lacey Farms 1. (See Exhibit 1)

- B. The background or up-gradient concentration of nitrate-nitrogen ranges between 4.5 and 8.6 mg/l based on sample results from 519-03, the house well, located between Bryan Sow and Norris Farm.
- C. The only sample for the irrigation wells (519-02), reported by Seaboard for December 11, 2000, had a fecal coliform count of 62.5 colony forming units /100 ml. This sample point is for all four irrigation wells combined. It is within the land application area, immediately east, down-gradient of the house well mentioned above. The presence of fecal coliform in ground water may present an imminent and substantial endangerment to human health and/or the environment. The nitrate-nitrogen range is between 1.0 and 9.8 mg/l.
- D. The data from the site show changes in the compounds of nitrogen consistent with the nitrogen cycle as waste moves from the waste lagoon to ground water at the facility. Typically, nitrogen in fluids produced from animal waste begins in the form of ammonia, which is the dominant dissolved nitrogen compound in the lagoon. Contact of the ammonia with oxygen results in conversion to nitrite and then very rapidly to nitrate as the fluids escape the lagoon and travel through the aerobic environment of the aquifer. The following data are consistent with this process:
- i. A sample of the Bryan Sow waste lagoon (on the western side of the properties) taken by the EPA in December 2000, revealed concentrations of ammonia at 475 mg/l, nitrite-nitrogen at 98.5 mg/l and nitrate-nitrogen at 0.39 mg/l.
  - ii. Also in December 2000, the northern lagoon monitoring well (519-04) located 84 feet north of the lagoon, within the land application area, screened from 20 to 30 feet below land surface showed 0.0 mg/l of ammonia, 0.0 nitrite-nitrogen and 44.4 mg/l of nitrate-nitrogen. At the same location, the water table was 17 feet below surface. The well initially tested 17.7 mg/l nitrate-nitrogen in March 1997, since then, the nitrate-nitrogen concentrations steadily increased to 47.4 mg/l by March 1999. After that time the test results have fluctuated between 31.9 and 44.4 mg/l. Although this well is described as a regional up-gradient lagoon monitor well, locally it is cross-gradient. The high nitrate concentrations could be a result of altered local rise in ground water level to a localized leak in the facility infrastructure collecting in the aquifer through a casing problem in this monitoring well.
  - iii. The down-gradient lagoon monitor well 519-05 has ranged between 17.8 and 21.2 mg/l nitrate-nitrogen from April 1998 to the present.
- E. The house occupied by the Rangels is located at a down-gradient site from the Lacey 1 Facility. Ana Rangel was expecting imminent delivery of her child, when the EPA enforcement investigation team visited her home in May 2001. The house supply well tested 15.7 mg/l nitrate-nitrogen in March 2001, and between 14.5 and 15.0 mg/l in May 2001. On May 30, 2001 Ms. Rangel was advised by the EPA to drink only bottled water until further notice.

- F. There are potentially other water supply wells within the vicinity of the facility which have not been sampled for possible contamination. In addition, there may be other types of wells in the vicinity of the facility which have not been identified for sampling.
- G. The EPA has no record of ground water cleanup or remedial activities at Lacey Farms 1. The nitrate contamination is moving through the surficial aquifer, and the facility continues to contaminate the surficial aquifer via leaking facility infrastructure.

54: Lacey 3

- A. The regional ground water flow direction of the surficial aquifer is to the south. The local ground water flow direction ranges from the east to the south at different places beneath the facility.
- B. The background or up-gradient concentration of nitrate-nitrogen ranges between 6.4 and 13.2 mg/l based on sample results from 580-02, the irrigation well. Historical data collected at the Jones family drinking water well, 1 mile west and slightly north of Lacey 3, shows a trend from 6 mg/l in May 1992 to 8.0 mg/l nitrate-nitrogen in mid-2000.
- C. No waste lagoon samples have been taken at this site. Consistent with the nitrogen cycle and the high ammonia content of swine effluent, it is expected that the lagoon will contain high concentrations of ammonia, nitrite-nitrogen and very little nitrate-nitrogen, consistent with the findings at Lacey 1 (475 mg/l, 98.5 mg/l and 0.39 mg/l, respectively).
  - i. The southern down-gradient lagoon monitoring well (580-06) is one of the two additional monitoring wells required by ODA to monitor the waste lagoon. It was first tested in December 1999. It is screened from 20 to 30 feet below land surface and has consistently tested 0.0 mg/l of ammonia, 0.0 nitrite-nitrogen and between 31.0 and 34.9 mg/l nitrate-nitrogen.
  - ii. The western down-gradient lagoon monitoring well (580-07) is one of the two additional monitoring wells required by ODA to monitor the waste lagoon. It was first tested in December 1999. It has tested between 13.6 and 19.7 mg/l nitrate-nitrogen.
  - iii. The northern up-gradient lagoon monitor well (580-04) was reported by Seaboard as containing nitrate-nitrogen 69.7 mg/l on Dec. 4, 2000.
    - a. Historical tests for the 580-04 are between a low of 4.6 in Sept. 1998 and a high of 15.4 in Sept. 1999.
    - b. Based on historical data, it is believed that the (Lacey 3) 580-04 and (Lacey 6) 590-04 samples for early Dec. 2000 were switched inadvertently. The 580-04 test of 69.7 matches the 590-04 historical readings, while the 590-04, 14 Dec. 2000 sample tested 13 mg/l, matches the historical 580-04 readings.



- iv. The barn supply well, located down-gradient and immediately south of the lagoon, has consistently tested at 10 to 13 mg/l of nitrate-nitrogen (except the questionable 0 mg/l reading in Dec. 2000). The barn supply well is screened over 50 feet below the top of the water table (69 to 88 feet below ground level). Nitrate readings are greatly reduced with additional depth.
  - D. There are potentially other water supply wells within the vicinity of the facility which have not been sampled for possible contamination. In addition, there may be other types of wells in the vicinity of the facility which have not been identified for sampling.
  - E. The EPA has no record of ground water cleanup or remedial activities at Lacey Farms 3. The nitrate contamination is moving through the surficial aquifer, and the facility continues to contaminate the surficial aquifer via leaking facility infrastructure.
55. Lacey 4
- A. The regional ground water flow direction of the surficial aquifer is to the south-southwest. The local ground water flow direction ranges from the east-southeast to the west-southwest at different places beneath the facility.
  - B. The background or up-gradient concentration of nitrate-nitrogen based on sample results from the barn well (585-01) ranges between 6.4 and 9.4 mg/l with one high reading of 18.3 in Sept. 1997. This well was affirmed by Seaboard to the Oklahoma Department of Agriculture as a suitable up-gradient monitor well. The barn well is down-gradient from the field reported by PIC as having heavy applications of anhydrous-ammonia by an adjacent landowner.
    - i. The Moery family drinking water well located cross-gradient 3/4 mile to the east of the facility has a higher trend in nitrate-nitrogen's than seen at the facility (trend from 8.0 in mid-1993 to 10 mg/l in mid-2000).
    - ii. The off-site cross-gradient (due east; EL4 sample) house well of an unknown resident, tested at 7.9 to 8.5 mg/l nitrate-nitrogen in May 2001.
    - iii. In summary, all the barn well samples indicate a consistent background concentration of nitrate-nitrogen, and show that the facility has not historically seen effects of manure application to the up-gradient field.
  - C. No waste lagoon samples have been taken at this site. Consistent with the nitrogen cycle and the high ammonia content of swine effluent, it is expected that the lagoon will contain high concentrations of ammonia, nitrite-nitrogen and very little nitrate-nitrogen, consistent with the findings at Lacey 1 (475 mg/l, 98.5 mg/l and 0.39 mg/l, respectively).
    - i. The down-gradient lagoon monitoring well (585-03) located 102 feet south of the lagoon, screened from 22 to 32 feet depth below land surface, tested 0.0 mg/l of ammonia, 0.0 nitrite-nitrogen and 90.8 mg/l of nitrate-nitrogen on December 13, 2000. It initially tested 60.4 mg/l nitrate-nitrogen in March 1997. (In a meeting,



PIC reported that the lagoon was drained and 'walked', but no leak was found. No written record has been located.) The high was 106 mg/l in September 1998.

- ii. The other down-gradient lagoon monitoring well (585-04), located west of the lagoon has tested between 17.9 and 29.0 mg/l, since its initial test in Dec. 1999.
- D. Two off-site, down-gradient windmill water wells, owned by Bobby Cox, tested 13.2 to 14.0 mg/l nitrate-nitrogen in May 2001.
- E. The off-site house well of Bobby Cox, to the east-southeast of Lacey 4 lagoon, tested a high of 11.2 mg/l in March 2001, and 9.2 to 9.74 mg/l nitrate-nitrogen in May 2001. The nitrate source is probably originating from the Lacey 4 Facility. Fluctuations in nitrate concentrations are a common occurrence.
- F. The off-site house well of Ricky Cox, to the east-southeast of Lacey 4 land application area tested at a high of 9.5 mg/l in March 2001 and 5.4 to 6.89 mg/l nitrate-nitrogen in May 2001.
- G. There are potentially other water supply wells within the vicinity of the facility which may not have been sampled for possible contamination. In addition, there may be other types of wells in the vicinity of the facility which have not been identified for sampling.
- H. The EPA has no record of ground water cleanup or remedial activities at Lacey Farms 4 other than PIC's attempt to find the lagoon leak. The nitrate contamination is moving through the surficial aquifer, and the facility continues to contaminate the surficial aquifer via leaking facility infrastructure.

56. Lacey 6

- A. The regional ground water flow direction of the surficial aquifer is to the south-southwest. The local ground water flow direction ranges from east to south to the west at different places beneath the facility.
- B. The background or up-gradient concentration of nitrate-nitrogen ranges between 7.0 and 9.4 mg/l based on sample results from up-gradient lagoon well (590-05). This is consistent with the Good family drinking water well, immediately northwest of the facility, tested 8 mg/l nitrate-nitrogen in Oct. 2000.
- C. No waste lagoon samples have been taken at this site. Consistent with the nitrogen cycle and the high ammonia content of swine effluent, it is expected that the lagoon will contain high concentrations of ammonia, nitrite-nitrogen and very little nitrate-nitrogen, consistent with the findings at Lacey 1 (475 mg/l, 98.5 mg/l and 0.39 mg/l, respectively).
- i. The western down-gradient lagoon monitoring well (590-04) screened from 26 to 36 feet below land surface tested 0.0 mg/l of ammonia, 0.0 nitrite-nitrogen and 70.7 mg/l of nitrate-nitrogen, on December 14, 2000. Historic test results are between 49.2 and 73.2 mg/l nitrate-nitrogen, excluding the one questionable point at 13 mg/l. (See comments under Lacey 3 580-04 and the 69.7 mg/l point.)

- ii. The southern down-gradient well has tested erratically between 10.4 and 37.9 mg/l nitrate-nitrogen.
  - D. The well of the Hobbs household, located down-gradient and southwest of the Lacey 6 lagoon and west of the land application area, tested 5.5 mg/l in March 2001 and 8.0 to 8.67 mg/l nitrate-nitrogen in May 2001. This increase potentially indicates a trend towards higher nitrate concentrations as contamination moves onto the property.
  - E. There are potentially other water supply wells within the vicinity of the facility which may not have been sampled for possible contamination. In addition, there may be other types of wells in the vicinity of the facility which have not been identified for sampling.
  - F. The EPA has no record of ground water cleanup or remedial activities at Lacey Farms 6. The nitrate contamination is moving through the surficial aquifer, and the facility continues to contaminate the surficial aquifer via leaking facility infrastructure.
57. Fairview Nursery Complex
- A. The regional ground water flow direction of the surficial aquifer is to the south. The local ground water flow direction ranges from south-southeast to south-southwest at different places beneath the facility.
  - B. The complex includes four separate barn and lagoon systems with a shared central land application area. Three of the barns and associated lagoons are located on the west side of the property, from up-gradient Fairview 3 in the north to down-gradient Fairview 1 in the south. The land application is in the northern center and the Fairview 4 in the down-gradient eastern corner.
  - C. The background or up-gradient concentration of nitrate-nitrogen ranges between 4.1 and 5.7 mg/l, with one exception of 11.1 mg/l on June 21, 2000, based on sample results from the Fairview Nursery 3 up-gradient lagoon well (3200-01). This is consistent with the nearby up-gradient Clinesmith family drinking water well which tested 6.5 to 7.0 mg/l nitrate-nitrogen between June and Oct. 1995.
  - D. The down-gradient Fairview 3 lagoon monitoring well (3200-02) tested between 2.8 and 3.9 mg/l nitrate-nitrogen, indicating no significant contamination from that lagoon.
  - E. No waste lagoon samples have been taken at this site. Consistent with the nitrogen cycle and the high ammonia content of swine effluent, it is expected that the lagoons will contain high concentrations of ammonia, nitrite-nitrogen and very little nitrate-nitrogen, consistent with the findings at Lacey 1 (475 mg/l, 98.5 mg/l and 0.39 mg/l, respectively).
    - i. The down-gradient lagoon monitoring well for the most down-gradient lagoon (Fairview Nursery 1, 635-03), screened from 37 to 47 feet below land surface with a top water table at approximately 35 feet below ground level, tested 0.0 mg/l of ammonia, 0.0 nitrite-nitrogen and 33.1 mg/l of nitrate-nitrogen on November 2, 2000. The historic test range in this well is between 11.2 and 49.7 mg/l nitrate-

nitrogen, with a dramatic increase occurring in March 1999 followed by wide, but still high, concentration fluctuations.

- ii. The up-gradient lagoon monitoring well for the same lagoon has tested between 6.5 and 11.1 mg/l nitrate-nitrogen since the initial test in January 2000.
- F. The Oklahoma Department of Wildlife Conservation has installed three off-site monitor wells: one up-gradient; one down-gradient of three of the four sites and one south of the land application field.
- i. The up-gradient well tested between 4.9 to 6.2 mg/l nitrate-nitrogen.
  - ii. The down-gradient land application well tested between 11.2 and 14.1 mg/l nitrate-nitrogen.
  - iii. The down-gradient Nursery 1 lagoon well tested between 27.2 and 37.2 mg/l nitrate-nitrogen, mimicking the near-by down-gradient lagoon monitoring well (635-03).
- G. The facility is located about half a mile above the Canton Lake wetland.
- H. The EPA R. S. Kerr Research Facility at Ada, is conducting a study of the effects of swine effluent land application (LA) on the ground water. They have installed eight pairs of monitoring wells; screened from 21 to 31 feet and 36 to 46 feet, respectively; two pairs up-gradient and six down-gradient of the land application area. The up-gradient shallow screened wells tested less than one mg/l, with the deeper screened wells testing up to 7 mg/l nitrate-nitrogen. The shallow screened wells down-gradient, nearest the LA area tested 30 to 41 mg/l, while the deeper screened wells 600 yards down-gradient of the LA tested 12 to 18 mg/l nitrate-nitrogen.
- I. Based on reported nitrate-nitrogen concentrations (7.0 mg/l in October 1997 to 6.0 mg/l in May 2001), the Nichols family drinking water well, 1 mile south of the facility, has not yet been affected.
- J. There are potentially other water supply wells within the vicinity of the facility which may not have been sampled for possible contamination. In addition, there may be other types of wells in the vicinity of the facility which have not been identified for sampling.
- K. The EPA has no record of ground water cleanup or remedial activities at the Fairview Nursery Complex. The nitrate contamination is moving through the surficial aquifer, and the facility continues to contaminate the surficial aquifer via leaking facility infrastructure.
58. On April 8, 1999, based on review of submitted annual ground water monitoring reports, the EPA requested additional information from PIC that was needed for a more complete evaluation, including when operations started at each site, depth to ground water and elevation of monitoring wells, dates of land application, data on rainfall events, and analyses on Total Kjeldahl Nitrogen.

59. On November 19, 1999, the EPA provided written notice to PIC that the EPA was concerned about seventeen facilities operated by PIC, including all the Facilities addressed in this ORDER, because of the "high percentage of lagoons and land application areas adding to nitrate levels..." and further stated "immediate corrective measures are needed to address the highest nitrate levels, particularly at Lacey Farm 4."
60. On January 4, 2000, representatives from PIC and Seaboard Farms met with the EPA in Dallas to discuss alleged ground water impacts from leaking lagoons at the same seventeen PIC facilities. During PIC's presentation of various monitoring results from wells located on various sites, all of the Facilities in this ORDER were discussed. Based, in part on nitrogen isotope tests, PIC argued that the results showed on-site nitrate contamination was not from the swine lagoon. PIC stated that ground water contamination present in on-site wells was the result of the over application of anhydrous-ammonia by wheat farmers. The EPA was concerned that only 1 or 2 samples were taken and the results were not definitive. The nitrogen isotope test, by itself, is not conclusive of the nitrate source but only provides an indication of the source. The EPA concluded that on-site contamination was resulting from lagoon leakage and presented a document summarizing these concerns.
61. On or about January 31, 2000, Shawnee Funding Limited Partnership purchased the seventeen facilities from PIC.
62. On January 31, 2000, Seaboard Farms leased the seventeen former PIC facilities from Shawnee Funding Limited Partnership pursuant to an unrecorded Lease Agreement dated as of August 11, 1994.
63. The EPA received a letter from Seaboard on March 7, 2001, claiming that human exposure to nitrates at Lacey 1 and Lacey 6 was limited to employees showering in water at 11 mg/l at Lacey 6 and that the house well at Lacey 1 was utilizing a reverse osmosis system to protect the residents.
64. The mishandling of solid waste from the Facilities, if not addressed by the remedial actions required by this Order, may present an imminent and substantial endangerment to health and/or the environment.

## **VII. CONCLUSIONS OF LAW AND DETERMINATIONS**

65. Based on the Findings of Fact set out above, and the Administrative Record, the Director of the Compliance Assurance and Enforcement Division, EPA Region 6 has determined that:
66. Respondents are "persons" as that term is defined in Section 1004(15) of RCRA, 42 U.S.C. § 6903(15).
67. Certain materials (or substances) found, handled, and managed at the Facilities are solid waste as defined or set forth by Section 1004(5) of RCRA, 42 U.S.C. § 6903(5) and Section 3001 of RCRA, 42 U.S.C. § 6921.
68. There is, or has been, a mishandling of solid waste as defined or set forth by Section 1004(5) of RCRA, 42 U.S.C. § 6903(5) and Section 3001 of RCRA, 42 U.S.C. § 6921.

69. The past and/or present mishandling of solid waste at the Facilities may present an imminent and substantial endangerment to health and/or the environment within the meaning of Section 7003 of RCRA, 42 U.S.C. § 6973.
70. Respondents have contributed to the handling, storage, and/or disposal of solid waste which may present an imminent and substantial endangerment to human health and/or the environment.
71. The actions required by this Order are consistent with RCRA, and are necessary to protect human health and/or the environment from the release of solid waste from the Facilities into the environment.

### **VIII. ORDER**

72. Based on the foregoing, and in order to abate or prevent any imminent or substantial endangerment to health and the environment, Respondents are hereby **ORDERED** to perform the following actions in the manner and by the dates specified below. Respondents shall undertake, continue to take, and complete each of the following actions to the satisfaction of the EPA, pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973. All work undertaken pursuant to this Order shall be developed and performed in accordance with RCRA, its implementing regulations, and the Remedial Action Plan (RAP). The RAP is located in Attachment I. Respondents shall also utilize other relevant EPA guidance documents developed under RCRA, the Comprehensive Environmental Response Compensation and Liability Act, the Clean Water Act, and the Safe Drinking Water Act and any other documents determined by the EPA to be relevant during the course of this action. Any noncompliance with terms of this Order shall be construed as a violation of the terms of this Order. Oral advice or approvals given by EPA representatives will not relieve Respondents of their obligation to obtain formal written approvals required by this Order. Respondents may, with EPA approval, incorporate and utilize ongoing work, and/or any other work already completed by Respondents, which had been approved by the EPA and complied with all applicable Federal and State law. "Days" as set forth herein are calendar days unless otherwise specified.

### **COMPLIANCE NOTIFICATION**

73. Within twenty-four (24) hours after the receipt of this Order, Respondents shall notify Mr. Timothy T. Jones, Assistant Regional Counsel, EPA Region 6 by telephone at (214) 665-8421 whether Respondents intend to comply with the terms of this Order, and shall provide written confirmation of their intention to comply to the EPA within forty-eight (48) hours after receipt of this Order.

### **RAP: FIELD ANALYSIS (FA)**

74. Within thirty (30) days of the Effective Date of this Order, Respondents shall submit to the EPA a Field Analysis (FA) Workplan. The FA Workplan shall be prepared in accordance with the requirements in the RAP.



75. The FA Workplan shall be developed in accordance with, at a minimum, RCRA, its implementing regulations, and EPA guidance documents, and any other documents determined by the EPA to be relevant during the course of this action.
76. The FA Workplan shall describe in detail the methodology for determining the presence, magnitude, horizontal and vertical extent, direction, and rate of movement of any solid waste constituents within and beyond the Facilities' boundaries.
77. The FA Workplan shall conform to the requirements of the RAP, and shall document the procedures the Respondents shall use to conduct those investigations necessary to: (1) characterize the potential pathways of contaminant migration; (2) characterize the source(s) of contamination; (3) define the degree and horizontal and vertical extent of contamination; (4) identify actual or potential receptors; and (5) support the development of alternatives from which a remedial procedure will be selected by the EPA. A specific schedule for implementation of all activities shall be included in the FA Workplan.
78. In accordance with the provisions of the RAP, the FA Workplan shall include: (1) a Project Management Plan; (2) a Data Collection Quality Assurance Plan; (3) a Data Management Plan; (4) a Health and Safety Plan; and (5) a Community Relations Plan.
79. The EPA will approve, modify, or require revision to the FA Workplan. Respondents shall implement the FA Workplan according to the schedule set forth in the FA Workplan as approved by EPA.
80. Within 120 days of the approval of the FA Workplan, Respondents shall submit to the EPA a FA Report for review and approval. The FA Report shall be prepared in accordance with the requirements contained in the RAP.
81. The EPA will approve, modify, or require revision to the FA report.
82. During the Field Analysis, it may be necessary to revise the Final FA Workplan to increase or decrease the detail of information collected to accommodate the Facility specific situation. If such revisions are made, the schedule for deliverables affected by these revisions may be adjusted by the EPA.

**RAP: REMEDIAL PROCEDURES ANALYSIS (RPA)**

83. Within sixty (60) days of the approval of the Final FA Report, or upon written direction from the EPA, Respondents shall submit to the EPA a Draft RPA Report for review and approval or modification. The RPA Report shall be performed in a manner consistent with the requirements in the RAP.
84. The EPA will approve, modify, or require revision to the RPA Report.
85. During the Remedial Procedures Analysis, it may be necessary to revise the RPA to increase or decrease the detail of information collected to accommodate the Facility specific situation. If such revisions are made, the schedule for deliverables affected by these revisions may be adjusted by the EPA.



86. The Remedial Procedures Analysis shall be developed in accordance with, at a minimum, RCRA, its implementing regulations, and EPA guidance documents, and any other documents determined by the EPA to be relevant during the course of this action.
87. After a RPA has been performed by the Respondents, and the EPA has selected a preferred alternative for proposal in the Statement of Basis, it is the EPA's policy to request public comment on the Administrative Record and the proposed remedial procedure(s). Changes to the proposed remedial procedure(s) may be made by the EPA after consideration of public comment. The EPA may also require that the Respondents perform additional remedial procedure studies. In the event that significant interest is expressed during the public comment period, a public meeting may be held to facilitate community participation. After consideration of the public's comment on the proposed remedial procedure(s), the EPA will develop the Final Decision and Response to Comments (RTC) to document the selected remedial procedure(s), the EPA's justification for such selection, and response to the public's comment. Additional public involvement activities may be necessary, based on Facility specific circumstances.

RAP: REMEDIAL PROCEDURES IMPLEMENTATION (RPI)

88. No later than thirty (30) days after Respondents's receipt of notification of the EPA's remedy selection, or upon written direction from the EPA, Respondents shall submit to the EPA a Remedial Procedures Implementation Workplan ("RPI Workplan") for review and approval or modification.
89. The RPI Workplan shall include the following elements, in accordance with the RAP: (1) Introduction, Purpose, and Objectives, (2) Project Management Plan, (3) Project Schedule, (4) Construction Quality Assurance/Quality Control Plan, (5) Waste Management Procedures, (6) Sampling and Analysis Plan, (7) Design Plans and Specifications (100% complete); (8) Operation and Maintenance Plan, (9) Cost Estimate, (10) Health and Safety Plan, and (11) Community Relations Plan.
90. Upon EPA approval or modification of the RPI Workplan, Respondents shall construct and implement the remedial procedures in accordance with the approved RPI Workplan and the RAP, including any modifications by the EPA.
91. RPI may require additional studies to supplement the available technical data. At the direction of the EPA, Respondents shall submit an Additional Studies Report to the EPA for review and approval or modification.
92. No later than thirty (30) days after the completion of construction, Respondents shall submit a Remedial Procedures Construction Report to the EPA for review and approval or modification.
93. Respondents shall prepare and submit a Remedial Procedures Completion Report to the EPA for review and approval or modification when the remedial procedures objectives have been achieved.

94. During the RPI, it may be necessary to revise some of the deliverables described in the RPI Workplan to increase or decrease the detail of work performed to accommodate the Facility specific situation. If such revisions are made, the schedule for deliverables affected by these revisions may be adjusted by the EPA.
95. In the event Respondents identify a current threat to human health and/or the environment, Respondents shall immediately notify the EPA orally and in writing within five (5) days, summarizing the immediacy and magnitude of the potential threat to human health and/or the environment. No later than seven (7) days after notifying the EPA, Respondents shall submit to the EPA a Workplan for approval or modification that identifies measures which mitigate this threat and are consistent with, and integrated into, any other remedy at the Facilities.

**RAP: SUBMISSIONS/ AGENCY APPROVAL/ NOTICE/ ADDITIONAL WORK**

Facilities Submission	Due Date
FA Workplan	30 days
Completion of Approved FA	120 days after receipt of EPA approval of the FA Workplan
FA Report	120 days after receipt of EPA approval of the FA Workplan
Risk Assessment	Concurrent with the FA Report
Treatability Studies	As directed by the EPA, according to the schedule contained in the Treatability Study Workplan
RPA Report	60 days after receipt of EPA approval of the FA Report
Progress Reports	Monthly
RPI Workplan	30 days after receipt of EPA's Remedy Selection
Remedial Procedure Design Report	In accordance with the schedule in the EPA approved Final RPI Program Plan
Draft Design	In accordance with the schedule in the EPA approved Final RPI Program Plan
Intermediate Design	In accordance with the schedule in the EPA approved Final RPI Program Plan
Final Design	In accordance with the schedule in the EPA approved Final RPI Program Plan

Draft Construction Quality Assurance Workplan	Concurrent with the Draft Design document
Final Construction Quality Assurance Workplan	Concurrent with the Final Design document
Construction of Remedial Procedures	45 days after receipt of the EPA approval of the Final Remedial Procedure Design Plan and Final Construction Quality Assurance Plan
Remedial Procedure Construction Report	In accordance with the EPA approved Final Remedial Procedure Design Plan
Progress Reports during Operation and Maintenance	Semi-annually

96. Within twenty (20) days after receipt of the EPA's written approval or modification of any Workplan, Respondents shall commence work and implement the tasks required by the Workplan(s), in accordance with the standards, specifications and schedule stated in the Workplan(s), as approved or modified by the EPA.
97. Beginning with the month following the Effective Date of this Order, Respondents shall provide the EPA with the appropriate progress reports every month, due on the tenth (10) day of the following month. The progress reports shall contain the results of all sampling and testing required under this Order, and shall conform to requirements in the RAP.
98. The EPA will review all reports, workplans, or other submittals required under this Order, and notify Respondents in writing of the EPA's approval or modification of the deliverables, or any part thereof. Upon the EPA approval or modification, the submittal shall be deemed incorporated into and part of this Order.
99. Notwithstanding the foregoing, the EPA reserves the right to disapprove of, or provide comments on, any deliverable or any part thereof. Within thirty (30) days of receipt of the EPA's disapproval or comments on any deliverable, Respondents shall address the deficiencies to the EPA's satisfaction and submit a revised submittal. Upon the EPA approval or modification, the submittal shall be deemed incorporated into and part of this Order.
100. Any noncompliance with such EPA approved plans, reports, specifications, schedules, and attachments shall be construed as a violation of the terms of this Order. Oral advice or approvals given by EPA representatives will not relieve Respondents of their obligation to obtain any formal, written approvals required by this Order.
101. With respect to any and all submissions required by this Order, Respondents shall provide hard copies and one electronic copy of each document, as specified, to each of the following Agencies at the addresses specified below, unless notice is given in writing to Respondents of a change in address or unless it is otherwise specifically provided in the

Order. All submissions shall be hand-delivered or sent by certified mail, return receipt requested, or the equivalent. Respondents shall also submit a copy of all report submittals on 3.5 inch computer disk. The text shall be in a format compatible with WordPerfect, and data shall be in a format compatible with Microsoft Excel. Copies of all required referenced documents may be submitted in electronic format on a CD with a personal computer based imaging and full text retrieval system, with EPA approval, instead of hard copies. All correspondence shall include a reference to the case caption: U.S. EPA DOCKET NO. RCRA-06-2001-0908.

Three (3) hard copies to:  
Chief, ALONM Section (6EN-HS)  
Hazardous Waste Enforcement Branch  
U.S. EPA, Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733  
Attention: Seaboard Farms Project Manager

One (1) hard copy to each of the following:  
Mr. Dan J. Parrish, Director  
Water Quality  
State of Oklahoma Department of Agriculture  
P. O. Box 528804  
Oklahoma City, OK 73152-8804

Mr. Jimmy Givens  
Attorney, Legal Section  
Waste Management Division  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, OK 73101

102. All plans, reports, notices, or other documents submitted by Respondents pursuant to this ORDER, which make any representation concerning Respondents' compliance or noncompliance with any requirement of this ORDER, shall be accompanied by the following statement signed by a responsible corporate official of the Respondents. A responsible corporate official is defined as a President, Secretary, Treasurer, or Vice-President in charge of official business.

"I certify under the penalty of law that this document and all attachments were prepared by me or under my direction or supervision in accordance with a system designed to assure that qualified personnel gathered and evaluated the information submitted. Based on my inquiry of any and all persons directly responsible for gathering and analyzing the information obtained, I certify that the information contained in or accompanying this submittal is to the best of my knowledge and belief, true, accurate, and complete. As to those identified portion(s) of this submittal for which I cannot

personally verify the accuracy, I certify that this submittal and all attachments were prepared in accordance with procedures designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those directly responsible for gathering the information, or the immediate supervisor of such person(s), the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

103. The certification shall also include the name, title, date, and signature of the person or persons completing the certification.
104. All work performed pursuant to this Order shall be under the direction and supervision of an engineer or geologist with expertise in solid waste site cleanup. The Respondents shall notify the EPA in writing of the name, title, and qualifications of the engineer or geologist, and of any contractors or subcontractors and their personnel to be used in carrying out the terms of this Order no later than fourteen (14) days after the Effective Date of this Order, or no later than fourteen (14) days prior to such contract or subcontract.
105. The EPA may determine, or Respondents may propose, that certain tasks and deliverables, including investigatory work, engineering evaluation, or procedure/methodology modifications, are necessary in addition to or in lieu of the tasks and deliverables included in any EPA-approved workplan, when such additional work and deliverables are necessary to meet the purposes set forth in this Order.
106. When information indicates that such additional work and deliverables are necessary, the EPA will notify Respondents in writing and specify the basis for its determination that the additional work and/or deliverables are necessary. No later than fourteen (14) days after the receipt of such determination, Respondents shall have the opportunity to meet or confer with the EPA to discuss the additional work. If required by the EPA, Respondents shall submit for EPA approval a workplan for the additional work. The EPA will specify the contents of such workplan. Such workplan shall be submitted no later than thirty (30) days after receipt of EPA's determination that additional work is necessary, or according to an alternative schedule established by the EPA. Upon approval of a workplan by the EPA, Respondents shall implement it in accordance with the schedule and provisions contained therein.

#### **IX. PROJECT MANAGER**

107. No later than ten (10) days after the Effective Date of this Order, the EPA and Respondents shall each designate a Project Manager. Each Project Manager shall be responsible for overseeing the implementation of this Order. The EPA Project Manager will be the EPA's designated representative at the Facilities. All communications between Respondents and the EPA, and all documents, reports, and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order shall be directed through the Project Manager. All communications from the EPA to Respondents, and all documents,



reports and other correspondence concerning the activities performed pursuant to the terms and conditions of this Order from the EPA to Respondents shall also be directed to the address given in Section VIII.

108. Whenever possible, the EPA and Respondents should provide at least five (5) days written notice prior to changing their Project Manager. However, written notice shall be provided no later than five (5) days following such change.
109. The absence of the EPA Project Manager shall not be cause for the stoppage or delay of work at the Facilities.

#### **X. ADMINISTRATIVE RECORD**

110. This Order is based upon the Administrative Record compiled by the EPA, which is available through the Freedom of Information Act (FOIA) for public examination at the EPA Region 6 offices, 1445 Ross Avenue, Dallas, Texas, 75202-2733, during normal business hours, Monday through Friday.

#### **XI. SAMPLING AND DATA/DOCUMENT AVAILABILITY**

111. The Respondents shall submit to the EPA the results of all sampling and tests or other data generated by their employees and/or consultants with respect to the implementation of this Order.
112. Respondents shall submit these results in progress reports as described in the RAP and this Order.
113. The EPA will make available to the Respondents the results of sampling and/or tests or other data similarly generated from the Facilities by the EPA.
114. Respondents will specify the name and address of the laboratory to be used for sample analysis. The EPA reserves the right to conduct a performance and QA/QC audit of the above specified laboratory before, during, or after sample analysis. If the audit reveals deficiencies in lab performance or QA/QC, re-sampling and analysis may be required.
115. At the request of the EPA, the Respondents shall allow split or duplicate samples to be collected by the EPA, and/or their authorized representatives, of any samples collected by the Respondents pursuant to the implementation of this Order. The Respondents shall notify the EPA not less than 28 days in advance of any well installation or sample collection activity. In addition, the EPA shall have the right to take any additional samples that the EPA deems necessary. In the event the EPA conducts any additional sampling, Respondents will be offered the opportunity to split samples. However, in the event of unforeseen situations in the field where well installation or sample collection must occur within a time frame that does not allow for 28 days advance notice to the EPA, Respondents shall inform the EPA Project Manager of same by telephone and request approval to proceed within a shorter time frame. The EPA shall communicate such approval in writing and indicate whether the EPA or its consultant will be present for such



well installation or sampling event. Thereafter, Respondents's verbal request for approval shall be documented in writing to the EPA within seven (7) days.

## **XII. REPORTING AND PUBLIC ACCESS TO DOCUMENTS AND SAMPLING**

116. Respondents may assert a business confidentiality claim covering all or part of any information submitted to the EPA pursuant to this Order. Any assertion of confidentiality must be accompanied by information that satisfies the items listed in 40 C.F.R. § 2.204(e)(4) or such claim shall be deemed waived. Information determined by the EPA to be confidential shall be disclosed only to the extent permitted by 40 C.F.R. Part 2. If no such confidentiality claim accompanies the information when it is submitted to the EPA, the information may be made available to the public by the EPA without further notice to Respondents. Respondents shall not assert any confidentiality claim with regard to any analytical or physical data. Nothing in this Order requires Respondents to submit any document that is subject to a legitimate claim of privilege.

## **XIII. SITE ACCESS AND RECORD RETENTION**

117. The EPA, its contractors, employees, and/or any duly designated EPA representatives are authorized and permitted pursuant to Section 3007(a) of RCRA, 42 U.S.C. § 6927(a), to enter and freely move about the Facilities at all reasonable times in accordance with biosecurity policies established for each facility, for the purposes of enforcing the requirements of RCRA and this Order, including:
- A. Interviewing Facility personnel and contractors about work being performed at the Facilities in carrying out the terms of this Order; inspecting records, operating logs, and contracts related to the Facilities;
  - B. Reviewing the progress of Respondents in carrying out the terms of this Order;
  - C. Conducting such tests, sampling, or monitoring as the EPA deems necessary;
  - D. Using camera, video tape recorder, sound recorder, or other documentary type equipment to document conditions at the Facilities; and
  - E. Verifying the reports and data submitted to the EPA by Respondents.
118. Respondents shall permit the EPA and its representatives access at all reasonable times in accordance with biosecurity policies established for each facility, to the Facilities and subject to paragraph 119 below, to any other property to which access is required for implementation of this Order. Respondents shall permit such persons to inspect and copy all records, files, photographs, documents, including all sampling and monitoring data, that pertain to work undertaken pursuant to this Order and that are within the possession or under the control of Respondents or their contractors or consultants. Nothing in this Order requires Respondents to submit any document that is subject to a legitimate claim of privilege.

119. To the extent areas adjacent to the Facilities are presently owned by parties other than those bound by this Order, Respondents shall obtain or will use their best efforts to obtain site access agreements from the present owners to perform work pursuant to this Order no later than thirty (30) days after EPA approval of the specific workplan. Best efforts shall include, but not be limited to, requiring Respondents to pay reasonable rental costs and compensation for losses sustained by the owner or occupant of the realty. Access agreements shall provide access to Respondents, their contractor(s), the United States, the EPA, the State, and their representatives, including contractors. Any such access agreements shall be incorporated by reference into this final Order. In the event that site access agreements are not obtained within thirty (30) days after the specific workplan approval, Respondents shall notify the EPA by telephone within twenty-four (24) hours after expiration of the above thirty (30) day period, and shall, within seven (7) days after the oral notification, notify the EPA in writing of the failure to gain such site access agreements regarding both the lack of, and efforts to obtain, such agreements. If the EPA is able to obtain access, Respondents shall perform the work described in this Order.
120. In addition, all data, information, and records created or maintained in connection with the implementation of work under this Order shall be made available to the EPA. Respondents shall retain all such data, information or records for five (5) years after termination of the Order and provide notification to the EPA sixty (60) days prior to the destruction of any such documents.
121. All employees of Respondents and all persons, including contractors, who engage in activity under this Order, shall be available to and shall cooperate with the EPA.
122. Nothing in this Section is intended to limit, affect or otherwise constrain EPA's rights of access to property and records pursuant to applicable law.

#### **XIV. RESERVATION OF RIGHTS**

123. The EPA expressly reserves all statutory and regulatory powers, authorities, rights, remedies, both legal and equitable, which may pertain to the Respondents' failure to comply with any of the requirements of this Order, including without limitation, the assessment of civil penalties under Section 7003(b) of RCRA, 42 U.S.C. § 6973(b). If Respondents do not comply with the terms of this Order, the EPA may use any other authorities available to it to compel compliance with § 7003. This Order shall not be construed as a covenant not to sue, release, waiver, or limitation of any rights, remedies, powers, and/or authorities, civil or criminal, which the EPA has under RCRA, CERCLA, CWA, SDWA, or any other statutory, regulatory, or common law enforcement authority of the United States. This Order shall not be construed as a ruling or determination of any issue related to any Federal, State, or local permit whether required in order to implement this Order, or required in order to continue or alter operations at the Facilities (including but not limited to construction, operation or closure permits required under RCRA), and Respondents shall remain subject to all such permitting requirements.

124. The EPA reserves the right to disapprove of work performed by Respondents not in accordance with this Order and to require that Respondents perform additional tasks consistent with this Order.
125. The EPA reserves the right to perform any portion of the work consented to herein or any additional site characterization, feasibility study, and remedial work as it deems necessary to protect human health and/or the environment. In the event that Respondents cease to or fail to adequately perform the requirements contained in this Order, the EPA may exercise its authority under CERCLA to undertake response actions at any time. In any event, the EPA reserves its right to seek reimbursement from Respondents for costs incurred by the United States. Notwithstanding compliance with the terms of this Order, Respondents are not released from liability, if any, for the costs of any response actions taken or authorized by the EPA.
126. If the EPA determines that activities in compliance or noncompliance with this Order have caused or may cause a release of solid waste, or a threat to human health and/or the environment, or that Respondents are not capable of undertaking any of the work ordered, the EPA may order Respondents to stop further implementation of this Order for such period of time as the EPA determines may be needed to abate any such release or threat and/or to undertake any action which the EPA determines is necessary to abate such release or threat. Failure to comply with EPA's stop work order may result in a penalty not to exceed \$5,500 per day of continued non-compliance with EPA's stop work order pursuant to RCRA Section 7003(b) of RCRA, 42 U.S.C. § 6973(b).
127. In the event the EPA suspends the work or any other activity being performed at the Facilities pursuant to this Order, the EPA shall extend affected schedules under this Order for a period of time equal to that of the suspension of the work plus reasonable additional time for resumption of activities. If the delay pursuant to this Section is caused by Respondents or their contractor's noncompliance with this Order, then any extension of the compliance deadlines shall be at the EPA's sole discretion. Any extensions in the schedules set out in this Order must be made by the EPA in writing.
128. This Order is not intended to be nor shall it be construed to be a permit. The EPA's approval of any final workplan does not constitute a warranty or representation that the workplan will achieve the required cleanup or performance standards. Compliance by Respondents with the terms of this Order shall not relieve Respondents of their obligations to comply with RCRA or any other applicable local, State, or Federal laws and regulations.
129. Notwithstanding any other provision of this Order, no action or decision by the EPA pursuant to this Order, including without limitation, decisions of the Director of the Compliance Assurance and Enforcement Division, or his/her authorized representative, shall constitute final agency action giving rise to any right of judicial review prior to the EPA's initiation of a judicial action to enforce this Order, including an action for penalties or an action to compel Respondents's compliance with the terms and conditions of this Order.

130. In any action brought by the EPA for a violation of this Order, Respondents shall have the burden of showing that the EPA's position, including without limitation any interpretation of the terms and conditions of this Order and of applicable Federal and/or State law and regulations, was arbitrary and capricious or otherwise not in accordance with applicable law.
131. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive or other appropriate relief relating to the Facilities but unrelated to matters covered within the scope of this Order, Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been raised in the present matter.

#### **XV. SUBSEQUENT MODIFICATION OF THE FINAL ORDER**

132. Any deliverable required by this Order is, upon written approval or modification by the EPA, incorporated into this Order. Any noncompliance with such EPA-approved or modified deliverables shall be considered a violation of this Order.
133. No informal advice, guidance, suggestions, or comments by the EPA regarding reports, plans, specifications, schedules, and any other written documents submitted by Respondents will be construed as relieving Respondents of their obligation to obtain written approval, if and when required by this Order.
134. If the EPA determines that modification of the work specified in the Order is necessary and appropriate, the EPA may require that such modification be included.
135. If Respondents believe that a modification of the Work specified in workplans developed pursuant to the Order is necessary and appropriate, Respondents may petition to the EPA for an EPA determination on such potential modification, submitting appropriate documentation. Within a reasonable time after receipt of such petition, the EPA will make a determination whether the order should be modified.

#### **XVI. EPA APPROVALS/DISAPPROVALS**

136. All decisions, determinations and approvals required to be made by the EPA under this Order must be in writing. If the EPA does not approve any deliverable required to be submitted to the EPA for its approval pursuant to this Order, the Respondents shall address any deficiencies as directed by the EPA and revise and re-submit the deliverable within the time period specified in this Order for the EPA's approval.

## **XVII. PARTICIPATION IN COMMUNITY RELATIONS ACTIVITIES**

137. Respondents, their agent(s) or consultant(s) shall be given notice of and shall participate in public meetings, as appropriate, which may be held or sponsored by the EPA to explain activities at or concerning the Facilities.

## **XVIII. TERMINATION AND SATISFACTION**

138. Respondents may seek termination of this Order by submitting to the EPA a written document which indicates Respondents' compliance with all requirements of this Order and the associated dates of approval correspondence from the EPA. The provisions of this Order shall be deemed satisfied upon Respondents' and the EPA's execution of an "Acknowledgment of Termination and Agreement to Record Preservation and Reservation of Rights" ("Acknowledgment"). The Acknowledgment will specify that Respondents have demonstrated to the satisfaction of the EPA that the terms of this Order, including any additional tasks required by the EPA pursuant to this Order, have been satisfactorily completed. Respondents' execution of the Acknowledgment will affirm Respondents' continuing obligation (1) to preserve all records as required in Section XIII: Site Access and Record Retention, and (2) to recognize the EPA's reservation of rights described in Section XIV: Reservation of Rights, after all other requirements of the Order are satisfied.

## **XIX. QUALITY ASSURANCE**

139. Throughout all sample collections and analysis activities, Respondents shall use EPA-approved quality assurance, quality control, and chain-of-custody procedures, which shall be part of proposed and approved plans. In addition, Respondents shall:
- A. Follow all relevant EPA guidance for sampling and analysis unless determined by the EPA not to be applicable;
  - B. Ensure that laboratories used by Respondents for analyses perform such analyses according to the EPA methods (SW-846, 3rd Edition, or as superseded and 40 C.F.R. 141) or other methods deemed satisfactory to the EPA. If methods other than the EPA methods are to be used, Respondents shall submit all protocols to be used for analyses to the EPA for approval no later than thirty (30) days prior to the commencement of analyses and shall not implement such protocols until receipt of EPA approval; and
  - C. Ensure that laboratories used by Respondents for analyses participate in a quality assurance and quality control program equivalent to that which is followed by the EPA. As part of such a program, and upon request by the EPA, such laboratories shall perform analysis of a reasonable number of known samples provided by the EPA to demonstrate the quality of the analytical data.



## **XX. STATEMENT OF SEVERABILITY**

140. If any provision or authority of this Order, or the application of this Order to any party or circumstances, is held by any judicial or administrative authority to be invalid, the application of such provisions to other parties or circumstances and the remainder of the Order shall not be affected thereby.

## **XXI. SURVIVABILITY/PERMIT INTEGRATION**

141. A permit issued under state or federal law may be issued to the Facilities incorporating the requirements of this Order by reference.
142. Any requirements of this Order shall not terminate upon the issuance of a state or federal permit or permit modification, unless all Order requirements of the Remedial Action Plan (Attachment I) are expressly replaced by the requirements in the permit or all provisions of this Order have been fully complied with to the EPA's Satisfaction as per Section XVIII of this Order.

## **XXII. OTHER ENFORCEMENT AUTHORITY**

143. Failure or refusal to carry out the terms of this Order in a manner deemed satisfactory to the EPA may subject Respondents to a civil penalty enforcement action in an amount not to exceed \$5,500 for each day of non-compliance with this Order, in accordance with Section 7003(b) of RCRA, 42 U.S.C. § 6973(b).

## **XXIII. EFFECTIVE DATE**

144. This Order shall become effective upon receipt of the Order by Respondents.
145. Respondents may, within seven (7) days after the Effective Date of this Order, request a conference with the EPA to discuss this Order. If requested, the conference shall occur at the U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. This conference will be presided over by the Regional Judicial Officer (unless another person has been designated). Requests for a conference shall be made by telephone followed by a written request confirmation mailed that day, by certified mail, return receipt requested to Timothy T. Jones, Assistant Enforcement Counsel (6RC-EW), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.
146. The purpose and scope of this conference shall be limited to issues involving the implementation of the actions required by this Order and the extent to which Respondents intend to comply with this Order. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give the Respondents a right to seek review of this Order, or to seek resolution of potential liability, and no official

stenographic record of the conference will be made. At any conference held pursuant to Respondents' request, the Respondents may appear in person, or by an attorney or other representative.

147. Within three (3) business days following the conference, the Regional Hearing Officer or designee shall prepare and sign a written summary of the proceeding. The summary shall address the significant arguments raised by the Respondents, recommend how the Order should be modified, if at all, and contain the reasons for the revisions, if any. Based on a review of the administrative record, any probative information or argument made by the Respondents, and the recommendation of the Regional Hearing Officer or designee, the Regional Administrator may, upon specific written notice to the Respondents, modify or revoke the Order.

**IT IS SO ORDERED:**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, REGION 6**

Date: 6/26/01

By: Samuel Coleman  
Samuel Coleman, P.E.

Director  
Compliance Assurance and  
Enforcement Division  
U.S. Environmental Protection Agency  
Region 6  
1445 Ross Avenue  
Dallas, Texas 75202-2733

# **CERTIFICATE OF SERVICE**

I hereby certify that I have caused a copy of the foregoing ORDER (U.S. EPA Docket No.: RCRA-06-2001-0908) to be served upon the person(s) designated below on the date below, by causing said copy to be deposited in the U.S. Mail, First Class (express mail certified, Return Receipt Requested, postage prepaid), at Dallas, Texas, in an envelope addressed to:

Mr. Rod Brenneman, President  
Seaboard Farms, Inc.  
9000 West 67<sup>th</sup> Street  
Shawnee Mission, Kansas 66201

I have further caused the original and one copy of said ORDER and the Certificate of Service to be filed with the Regional Hearing Clerk, United States Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733 on the date specified below.

Dated this 26<sup>th</sup> day of June 2001.



Timothy T. Jones  
Assistant Regional Counsel

## CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing ORDER (U.S. EPA Docket No.: RCRA-06-2001-0908) to be served upon the person(s) designated below on the date below, by causing said copy to be deposited in the U.S. Mail, First Class (express mail certified, Return Receipt Requested, postage prepaid), at Dallas, Texas, in an envelope addressed to:

Seaboard Farms, Inc.  
c/o Registered Agent  
The Corporation Company  
735 First National Building  
Oklahoma City, OK 73102

I have further caused the original and one copy of said ORDER and the Certificate of Service to be filed with the Regional Hearing Clerk, United States Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733 on the date specified below.

Dated this 26<sup>th</sup> day of June, 2001.



Timothy F. Jones  
Assistant Regional Counsel



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I hereby certify that I have caused a copy of the foregoing ORDER (U.S. EPA Docket No.: RCRA-06-2001-0908) to be served upon the person(s) designated below on the date below, by causing said copy to be deposited in the U.S. Mail, First Class (express mail certified, Return Receipt Requested, postage prepaid), at Dallas, Texas, in an envelope addressed to:

Mr. Mark J. Schroeder  
Shawnee Funding Limited Partnership  
Shawnee Capital, Inc.  
World Financial Center, North Tower  
27<sup>th</sup> Floor, 250 Vesey Street  
New York, New York 10281-1327

I have further caused the original and one copy of said ORDER and the Certificate of Service to be filed with the Regional Hearing Clerk, United States Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733 on the date specified below.

Dated this 26<sup>th</sup> day of June 2001.

  
Timothy T. Jones  
Assistant Regional Counsel

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PIC International Group, Inc.  
c/o Registered Agent  
Corporation Service Company  
2711 Centerville Road Suite 400  
Wilmington, DE 19808

I have further caused the original and one copy of said ORDER and the Certificate of Service to be filed with the Regional Hearing Clerk, United States Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733 on the date specified below.

Dated this 26<sup>th</sup> day of June, 2001.

  
Timothy T. Jones  
Assistant Regional Counsel

## CERTIFICATE OF SERVICE

I hereby certify that I have caused a copy of the foregoing ORDER (U.S. EPA Docket No.: RCRA-06-2001-0908) to be served upon the person(s) designated below on the date below, by causing said copy to be deposited in the U.S. Mail, First Class (express mail certified, Return Receipt Requested, postage prepaid), at Dallas, Texas, in an envelope addressed to:

Shawnee Funding Limited Partnership  
c/o Registered Agent  
National Corporate Research Ltd.  
615 South DuPont Highway  
Dover, Delaware 19901

I have further caused the original and one copy of said ORDER and the Certificate of Service to be filed with the Regional Hearing Clerk, United States Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, TX 75202-2733 on the date specified below.

Dated this 26<sup>th</sup> day of June, 2001.



Timothy T. Jones  
Assistant Regional Counsel